

American Journal of International Law

**VOLUME 66
1972**



***Published by The
American Society of International Law***



The American Society of International Law

The American Society of International Law was organized in 1906 "to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice."

The Society serves as a meeting place and forum for scholars, teachers, officials, lawyers and others, from some ninety-seven countries. At the end of April, it holds a three-day Annual Meeting in Washington at which current problems of international law are discussed. The Society also sponsors regional meetings outside of Washington in co-operation with other institutions. Salient questions of international law and relations are considered in depth by panels and study groups organized by the Society's Board of Review and Development. Works of scholarship are often published under the Society's auspices in connection with studies sponsored by the Board.

The Society periodically issues three publications:

The American Journal of International Law, the leading journal in the field of international law, has been published since 1907. A special number of the *Journal* carries the papers and discussions of the annual meeting of the Society. The *Journal* is distributed to all members of the Society without additional charge, and is available to non-members at a subscription rate of \$30 a year.

International Legal Materials, a bimonthly, is a unique international collection of texts of current official documents, including legislation, treaties, court decisions, and reports. Subscription rates are \$15 a year for members of the Society, \$35 for others.

The monthly *Newsletter* provides members with news of the Society and other organizations in the field and reports on pending international litigation.

Society membership is open to all persons of whatever nationality and profession who are interested in its objectives. Dues are: regular, \$25 for residents of the United States, \$10 for non-residents; professional, \$40; intermediate, \$15; student, \$7.50. Application for membership may be made on the form printed at the back of this issue of the *JOURNAL*.

OFFICERS OF THE SOCIETY, 1972-1973

Honorary President	PHILIP C. JESSUP
President	WILLIAM D. ROGERS
Executive Vice President	STEPHEN M. SCHWEBEL
Vice Presidents	ERNEST A. GROSS, JOHN N. HAZARD, ROSALYN HIGGINS
Honorary Vice Presidents:	WILLIAM W. BISHOP, JR., HERBERT W. BRIGGS, ARTHUR H. DEAN, HARDY C. DILLARD, CHARLES G. FENWICK, LEO GROSS, GREEN H. HACKWORTH, JAMES N. HYDE, HANS KELSEN, HAROLD D. LASSWELL, CHARLES E. MARTIN, BRUNSON MACCHESNEY, MYRES S. MCDUGAL, OSCAR SCHACHTER, JOHN R. STEVENSON, ROBERT R. WILSON.
Secretary	EDWARD DUMBAULD
Treasurer	FRANZ M. OPPENHEIMER
Assistant Treasurer	JAMES C. CONNER

BOARD OF EDITORS

Acting Editor-in-Chief

BRUNSON MACCHESNEY,
Northwestern University Law School

RICHARD R. BAXTER
Harvard Law School

RICHARD B. BILDER
University of Wisconsin Law School

JOHN CAREY
New York, N. Y.

JEROME A. COHEN
Harvard Law School

ALONA E. EVANS
Wellesley College

RICHARD A. FALK
Princeton University

THOMAS M. FRANCK
New York University

WOLFGANG FRIEDMANN*
Columbia University School of Law

LOUIS HENKIN
Columbia University School of Law

JAMES NEVINS HYDE
New York, N. Y.

MONROE LEIGH
Washington, D. C.

* Deceased
September 20, 1972

RICHARD B. LILLICH
University of Virginia Law School

OLIVER J. LISSITZYN
Columbia University School of Law

STANLEY D. METZGER
Georgetown University Law Center

JOHN NORTON MOORE
University of Virginia Law School

COVEY T. OLIVER
University of Pennsylvania
Law School

WILLIAM M. REISMAN
Yale Law School

STEFAN A. RIESENFELD
University of California Law School

OSCAR SCHACHTER
New York, N. Y.

STEPHEN M. SCHWEBEL
Washington, D. C.

LOUIS B. SOHN
Harvard Law School

ERIC STEIN
University of Michigan Law School

MARJORIE M. WHITEMAN
Liberty Center, Ohio

Honorary Editors

WILLIAM W. BISHOP, JR.
University of Michigan Law School

HERBERT W. BRIGGS
Cornell University

HARDY C. DILLARD
University of Virginia Law School

CHARLES G. FENWICK
Washington, D. C.

LEO GROSS
Fletcher School of Law and
Diplomacy, Tufts University

PHILIP C. JESSUP
New York, N. Y.

HANS Kelsen
University of California

MYRES S. MCDUGAL
Yale Law School

PITMAN B. POTTER
American University

JOHN B. WHITTON
Princeton University

ROBERT R. WILSON
Duke University

Assistant Editor

ANNE PATRICIA SIMONS

Editorial Assistant

ROSEMARY G. CONLEY

AMERICAN JOURNAL OF INTERNATIONAL LAW

VOLUME 66

CONTENTS

1972

[No. 1, January 1972, pp. 1-254; No. 2, April 1972, pp. 255-478; No. 3, July 1972, pp. 479-736; No. 5, October 1972, pp. 737-992.]

	PAGE
Reprisals Involving Recourse to Armed Force <i>Derek Bowett</i>	1
Methods to Expedite Environment Protection: International Eco-standards <i>Paolo Contini and Peter H. Sand</i>	37
International Law and Social Science: The Contributions of Myres S. McDougal <i>Oran R. Young</i>	60
The Act of State Doctrine—Judicial Deference or Abstention? <i>Robert Delson</i>	82
Legal Restraints in Modern Arms Control Agreements <i>Eric Stein</i>	255
Technological Challenge to the Shared Environment: United States Practice <i>Frederick L. Kirgis, Jr.</i>	290
Self-Determination in International Law: The Tragic Tale of Two Cities—Islamabad (West Pakistan) and Dacca (East Pakistan) <i>Ved. P. Nanda</i>	321
The International Court of Justice and the Human Rights Clauses of the Charter <i>Egon Schwelb</i>	337
Review of the Role of the International Court of Justice <i>Leo Gross</i>	479
Defining Aggression: Where It Stands and Where It's Going <i>Benjamin B. Ferencz</i>	491
Due Process of Law before the European Court of Human Rights: The Secret Deliberation <i>Kurt H. Nadelmann</i>	509
The International Law Standard in Recent Treaties and Agreements of the United States <i>Robert R. Wilson</i>	526
Developments in the Law and Institutions of International Economic Relations:	
American Foreign Trade and Investment Policy for the 1970's: The Williams Commission Report <i>Stanley D. Metzger</i>	537
The "Sanctions" of the International Monetary Fund <i>Joseph Gold</i>	737

	PAGE
The Andean Foreign Investment Code: A New Phase in the Quest for Normative Order as to Direct Foreign Investment	<i>Covey Oliver</i> 763
The Legality of Naval Cruise Missiles	<i>D. P. O'Connell</i> 785
Act of State and Department of State: First National City Bank v. Banco Nacional de Cuba	<i>Andreas F. Lowenfeld</i> 795

Editorial Comment

The State Department's Role in the Judicial Administration of the Act of State Doctrine	<i>Stanley D. Metzger</i> 94
Political Refugees "Not Firmly Resettled" as in Section 203(a)(7) of the Immigration and Nationality Act	<i>Alona E. Evans</i> 101
Progress on Human Rights at the United Nations	<i>John Carey</i> 107
Quincy Wright: On Legal Tests of Aggressive War	<i>Richard A. Falk</i> 560
Political Refugees and the United States Immigration Laws: Further Developments	<i>Alona E. Evans</i> 571
The Retirement of Miss Eleanor H. Finch as Assistant Editor of the Journal	<i>R. R. Baxter</i> 815
The Brezhnev Doctrine Repealed and Peaceful Co-Existence Enacted	<i>Stephen M. Schwebel</i> 816
Aircraft Hijacking: What Is To Be Done?	<i>Alona E. Evans</i> 819

Notes and Comments:

The New Economic Policy and U. S. International Obligations	<i>John H. Jackson</i> 110
The ECE Symposium on Problems Relating to Environment	<i>Robert E. Stein</i> 118
International Law at the War Colleges	<i>L. F. E. Goldie</i> 124
Regional Meeting in London, June 10, 1971	<i>Rosalyn Higgins</i> 127
Hague Academy of International Law	<i>Eleanor H. Finch</i> 128
Denver Journal of International Law and Policy	<i>Eleanor H. Finch</i> 130
Annual Meeting of the Society, 1972	<i>E. H. F.</i> 131
<i>Institut de Droit International</i> . Zagreb Session, 1971	<i>Herbert W. Briggs</i> 352
The 1971 Elections of the International Law Commission	<i>Martin Saunders</i> 356
The United Nations and Emergency Humanitarian Assistance in India-Pakistan	<i>Gidon Gottlieb</i> 362
Status of Multilateral Treaties—Researcher's Mystery, Mess or Muddle?	<i>Adolf Sprudz</i> 365

	PAGE
International Colloquium on Federalism and the Integration of Legal Systems <i>Edward McWhinney</i>	376
Corrigendum <i>Wolfgang Friedmann</i>	376
Reprisals and Self-Defense: The Customary Law <i>Robert W. Tucker</i>	596
Socialist International Law Revisited <i>Chris Osakwe</i>	596
The Right of the United Nations to Bring Actions in Municipal Courts in Order to Claim Title to Namibian (South West African) Products Exported Abroad <i>Itse Sagay</i>	600
Report of the Meeting of the Advisory Committee on "Foreign Relations of the United States" <i>Ints L. Claude, Jr.</i>	604
Denys Myers, 1884-1972 <i>Eleanor H. Finch</i>	608
Scott Prizes in International Law	609
Vanderbilt Journal of Transnational Law <i>Eleanor H. Finch</i>	609
The Board of Editors <i>Eleanor H. Finch</i>	610
Does Failure to Pay Compensation for Expropriated Property Come within the Act of State Doctrine? <i>John G. Laylin</i>	823
A Lexicographical Controversy—The Word "Adjacent" in Article 1 of the Continental Shelf Convention <i>L. F. E. Goldie</i>	829
U. S. Contemporary Practice Relating to International Law <i>Steven C. Nelson</i>	133, 378, 612, 836
Judicial Decisions Involving Questions of International Law <i>Alona E. Evans</i>	145, 396, 626, 856
Book Reviews and Notes <i>Leo Gross</i>	197, 410, 640, 877
Books Received	236, 448, 697, 914
Official Documents:	
United Nations. Economic and Social Council. Submission on Prevention of Discrimination and Protection of Minorities. Resolution on procedures on admissibility of human rights complaints	240
France-Union of Soviet Socialist Republics-United Kingdom-United States. Agreement and Notes on Berlin.	242
United Nations. Draft Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.	451
International Conference on Air Law. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.	455

Argentina-Chile-United Kingdom. Agreement for Arbitration of a Controversy between the Argentine Republic and the Republic of Chile concerning the Region of the Beagle Channel.	461
Institut de Droit International. Resolutions adopted at its Zagreb Session, 1971.	465
Resolutions adopted at its Edinburgh Session, 1969.	470
United Nations. Convention on International Liability for Damage Caused by Space Objects.	702
India-Pakistan Hostilities. Security Council. Resolution 303, December 6, 1971 and Resolution 307, December 21, 1971. General Assembly. Resolution 2793 (XXVI), December 7, 1971.	710
Inter-Governmental Maritime Consultative Organization. International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.	712
Specialized Conference of Caribbean Countries Concerning the Problems of the Sea. Declaration of Santo Domingo.	918
United States-Soviet Union. Basic Principles of Relations.	920
Council of Europe. European Convention on State Immunity and Additional Protocol.	923
International Legal Materials. Contents, Vol. X, No. 6 (1971); Vol. XI, Nos. 1-5	253, 475, 733, 942
Index	945

